

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

CLAYTON STIPES]
 Plaintiff,]
]
v.]
]
STATE OF TENNESSEE, et al.]
 Defendants.]

No. **3 09 0555**
(No. 3:09-mc-0102)
Judge Campbell

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Southeastern Tennessee State Regional Correctional Facility in Pikeville, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against the State of Tennessee, the West Tennessee State Prison (WTSP); the Deberry Special Needs Facility (DSNF); Diane Sullivan, a member of the WTSP medical staff; and two doctors (Paul Alexandra and Mark King) at DSNF; seeking injunctive relief and damages.

On May 18, 2008, the plaintiff woke up in his cell at WTSP and discovered that he was paralyzed from the neck down to his feet. He claims that he was denied adequate medical care for the paralysis at both WTSP and DSNF.


The plaintiff claims that the State of Tennessee and two of its prisons violated his constitutional rights. However, the Eleventh Amendment bars a suit in federal court by a citizen against a state and its agencies unless the state has expressly

consented to suit by waiving its sovereign immunity or Congress has clearly overridden that immunity. Pennhurst State School and Hospital v. Halderman, 104 S.Ct. 900, 908 (1984); Will v. Michigan Department of State Police, 109 S.Ct. 2304, 2312 (1989). Congress has not overridden a state's sovereign immunity to civil rights complaints. Nor has the State of Tennessee consented to waive its immunity to such actions. Berndt v. Tennessee, 796 F.2d 879 (6th Cir.1986). As a consequence, the plaintiff has failed to state an actionable claim against the State of Tennessee, WTSP and DSNF.

The individual defendants are being sued in their official capacities only. As such, the plaintiff is suing these defendants' official office rather than the individuals themselves. Will, *supra*. In essence, then, the plaintiff's claims are against the State of Tennessee, the entity that maintains custody of the plaintiff. See Kentucky v. Graham, 105 S.Ct. 3099, 3105 (1985). For the reasons stated above, the Eleventh Amendment precludes a suit against these individuals acting in their official capacities only.

In the absence of an actionable claim, the Court is obliged to dismiss the complaint *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.


Todd Campbell
United States District Judge